

2013 LAWS AFFECTING CITIES AND TOWNS

PUBLIC LAW 28 - SENATE ENROLLED ACT 175 – EFFECTIVE JULY 1, 2013

E-VERIFY-CONTRACTS FOR SERVICES – Amends IC 22-5-1.7-6 - Requires all public contracts for services that are in writing to contain a provision that the contractor enroll in the E-Verify program.

PUBLIC LAW 36 - HOUSE ENROLLED ACT 1077 – EFFECTIVE APRIL 8, 2013

COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT) - TRANSFERS – Amends IC 6-3.5-7-12.7 - Allows the executive of a city or town to transfer to:

- (1) its general fund; or
- (2) any other fund of the city or town that the executive serves;

money that has been deposited in the economic development income tax fund established by the city or town. The executive shall adjust the city's or town's capital improvement plan to reflect the transfer. After appropriation of the money by the fiscal body of the city or town in a budget or supplemental budget (as required by law), the money transferred may be used for the purposes of the fund to which the money is transferred. Such transfer may be made at any time.

A city or town may not transfer money if the amount transferred would impair the city's or town's ability to satisfy any debts, liabilities, or obligations for which county economic development income taxes are pledged or otherwise encumbered, including transfers required by IC 36-7.5-4-2.

PUBLIC LAW 41 - SENATE ENROLLED ACT 153 – EFFECTIVE APRIL 9, 2013

EMPLOYMENT OF CHILDREN - Adds IC 20-33-3-31.5 - Amends IC 20-33-3-6 and IC 20-33-3-31 - States that an employment certificate is not required for a child who is at least 12 years of age but less than 18 years of age and is employed as a youth athletic program referee, umpire, or official under IC 20-33-3-31.5. Makes certain children at least 12 years of age but less than 18 years of age exempt from the requirements of IC 20-33-3 if they are referees, umpires, or officials meeting certain conditions.

PUBLIC LAW 47 - SENATE ENROLLED ACT 249 – EFFECTIVE JULY 1, 2013

RETIREMENT PLAN REPORTING - Adds IC 5-11-20 - Requires certain information on retirement plans to be reported on the Gateway Annual Report portal beginning next year. These would include pension plans of housing authorities, airport authorities, public transportation corporations, hospitals, local health departments, and utilities.

PUBLIC LAW 50 - SENATE ENROLLED ACT 387 – EFFECTIVE JULY 1, 2013

ILLEGAL PARKING IN A SPACE RESERVED FOR PERSONS WITH A PHYSICAL DISABILITY OR DISABLED VETERANS - Amends IC 5-16-9-5 and IC 5-16-9-8 - Raises the civil judgment from \$50 to \$100.

PUBLIC LAW 105 – HOUSE ENROLLED ACT 1145 – EFFECTIVE JULY 1, 2013

RAINY DAY FUND – Amends IC 36-1-8-5.1 – Allows a city or town, in any fiscal year, at any time to do the following:

- (1) Transfer any unused and unencumbered funds specified in IC 36-1-8-5.1(b)(2)(A) from any fiscal year to the rainy day fund.
- (2) Transfer any other unobligated cash balances from any fiscal year that are not otherwise identified in IC 36-1-8-5.1(b)(2)(A) or IC 36-1-8-5 to the rainy day fund as long as the transfer satisfies the following requirements:
 - (A) The amount of the transfer is authorized by and identified in an ordinance or resolution.
 - (B) The amount of the transfer is not more than ten percent (10%) of the city or town's total annual budget adopted under IC 6-1.1-17 for that fiscal year.

A city or town may use only the funding sources specified in IC 36-1-8-5.1(b)(2)(A) or in the ordinance or resolution establishing the rainy day fund. The city or town may adopt a subsequent ordinance or resolution authorizing the use of another funding source.

The Department of Local Government Finance may not reduce the actual or maximum permissible levy of a city or town as a result of a balance in the rainy day fund of the city or town.

A city or town may at any time, by ordinance or resolution, transfer to:

- (1) its general fund; or
 - (2) any other appropriated funds of the city or town;
- money that has been deposited in the rainy day fund of the city or town.

BANK CARDS/CREDIT CARDS - CONVENIENCE FEE – Amends IC 36-1-8-11 – Allows a city or town or municipally owned utility to contract with a bank card or credit card vendor for acceptance of bank cards or credits cards. However, if there is a vendor transaction charge or discount fee, whether billed to the city or town or municipally owned utility or charged directly to the city or town's or municipally owned utility's account, the city or town or municipally owned utility may collect from the person using the card either or both of the following:

- (1) An official fee that may not exceed the transaction charge or discount fee charged to the city or town or municipally owned utility by bank or credit card vendors.
- (2) A reasonable convenience fee:
 - (A) that may not exceed three dollars (\$3); and
 - (B) that must be uniform regardless of the bank card or credit card used.

The fees described in subdivisions (1) and (2) may be collected regardless of retail merchant agreements between the bank and credit card vendors that may prohibit such fees. These fees are permitted additional charges under IC 24-4.5-3-202.

The city or town or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card.

PUBLICATION OF ORDINANCES - TOWNS - Amends IC 36-5-2-10 - States that an ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under IC 36-5-2-10(c); or
- (2) it declares an emergency requiring its immediate effectiveness and is posted in:
 - (A) one (1) public place in each district in the town; or
 - (B) a number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts.

Except as provided in IC 36-5-2-10(e), if a town publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published, it takes effect two (2) weeks after publication of the book or pamphlet. Publication, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

PUBLIC LAW 106 - HOUSE ENROLLED ACT 1219 – EFFECTIVE JULY 1, 2013

RESTRICTED ADDRESSES – Adds IC 34-30-2-152.7 and IC 36-1-8.5 - Requires cities and towns to restrict from disclosures the home address of a judge, law enforcement officer, or a victim of domestic violence if such person submits a written request for such restriction. Requires compliance to begin after June 30, 2014. Allows a city or town that operates a public property data base web site to charge a reasonable fee to such persons for restricting access to their home addresses on the web site. States that a written request, notification of name change, or any other information submitted by a covered person is confidential under IC 5-14-3-4(a).

PUBLIC LAW 143 – HOUSE ENROLLED ACT 1124 – EFFECTIVE JULY 1, 2013

LATE PAYMENT FEE - Amends IC 33-37-5-22 - States that notwithstanding IC 33-37-4-2(f), IC 34-28-5-5(a), and IC 34-28-5-5(b), the defendant shall pay a late payment fee of twenty-five dollars (\$25) if the defendant:

- (1) is found to have committed a violation constituting a Class D infraction or Class C infraction under IC 5-16-9-5 or IC 5-16-9-8 for unlawfully parking in a space reserved for a person with a physical disability;
- (2) is required to pay a fine or civil judgment;
- (3) is not determined by the court imposing the fine or civil judgment to be indigent; and
- (4) fails to pay the fine or civil judgment in full before the later of:
 - (A) the end of the business day on which the court imposes the fine or civil judgment; or
 - (B) the end of the period specified in a payment schedule set for the payment of fines and civil judgments under the rules adopted for the operation of the court.

However, the court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make timely payment of the fee.

PUBLIC LAW 184 - SENATE ENROLLED ACT 243 – EFFECTIVE MAY 7, 2013

PUBLIC RECORDS – Amends IC 5-14-3-4 - Adds the home address, home telephone number, and emergency contact information for any:

- (1) emergency management worker (as defined in IC 10-14-3-3);
 - (2) public safety officer (as defined in IC 35-47-4.5-3);
 - (3) emergency medical responder (as defined in IC 35-42-2-6); or
 - (4) advanced emergency medical technician (as defined in IC 16-18-2-6.5)
- to the list of public records which can be kept confidential at the discretion of the city or town.

PUBLIC LAW 195 - SENATE ENROLLED ACT 526 – EFFECTIVE JULY 1, 2013

PUBLIC EMPLOYEES RETIREMENT FUND (PERF) - Amends IC 5-10.2-3-3, IC 5-10.2-4-8, IC 5-10.2-4-9, IC 5-10.2-4-10, and IC 5-10.3-7-1 - Provides that a retired member of PERF who, after June 30, 2013, begins a period of reemployment in a position covered by PERF, continues to receive a retirement benefit, but does not earn a supplemental retirement benefit for the member's period of reemployment. Provides that a retired member of PERF who, before July 1, 2013, begins a period of reemployment in a position covered by PERF earns a supplemental benefit for the member's entire period of reemployment.

PUBLIC LAW 203 - SENATE ENROLLED ACT 433 – EFFECTIVE JULY 1, 2013

WEED CUTTING ASSESSMENTS - Amends IC 36-7-10.1-3 and IC 36-7-10.1-4 - Eliminates the requirement to notify a property owner of a violation by certified mail. Requires a property owner to be notified by first class mail. States that if the owner of real property fails to pay a bill issued under IC 36-2-10.1-3 within the time specified in the ordinance, the municipality may bring an action in an appropriate court to collect the amount of the bill, plus any additional costs incurred in the collection, including court costs and reasonable attorney's fees. If the municipality obtains a judgment, the municipality may obtain a lien in the amount of the judgment on any real or personal property of the owner.

PUBLIC LAW 284 - HOUSE ENROLLED ACT 1393 – EFFECTIVE MAY 1, 2013

AUTOMATED RECORD KEEPING FEE – Amends IC 33-37-5-21 - Raises the automated record keeping fee on all civil, criminal, infraction, and ordinance violation actions from five dollars (\$5) to seven dollars (\$7) after June 30, 2013 and before July 1, 2015. If an accused person enters into a pretrial diversion program or deferral program agreement, the automated record keeping fee is five dollars (\$5) after June 30, 2013, and before July 1, 2015.

PUBLIC LAW 288 - HOUSE ENROLLED ACT 1545 – EFFECTIVE VARIOUS DATES

AVIATION FUEL EXCISE TAX - Adds IC 6-6-13 - Creates an aviation fuel excise tax.

RAINY DAY FUND - Amends IC 36-1-8-5.1 - Prohibits transfers from a debt service fund to the rainy day fund.